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May 17, 2019

VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Joint Application of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to
Establish Green Source Advantage Programs and Riders GSA
Docket No. 2018-320-E

Dear Ms. Boyd:

By this letter, the Office of Regulatory Staff ("ORS") hereby notifies the Public Service Commission of South Carolina ("Commission") that ORS has reviewed comments filed by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC. (together the "Companies"), the South Carolina Solar Business Alliance, Incorporated, the Southern Alliance for Clean Energy, the South Carolina Coastal Conservation League, and Walmart, Inc., (together the "Parties") in the above referenced Docket.

On May 9, 2019, subsequent to the Application and Comments filed in this Docket, the South Carolina General Assembly passed the South Carolina Energy Freedom Act ("H.3659" or the "Act").¹ The Act contains provisions that will directly impact the Companies' Green Source Advantage Programs and Riders GSA ("GSA Programs"). Specifically, certain provisions of the Act relate to voluntary renewable programs. Including, but not limited to, Sections 58-41-20 and 58-41-30, which state:

¹ See enclosed H.3659

1. Section 58-41-20 (A): “As soon as is practicable after the effective date of this chapter, the Commission shall open a docket for the purpose of establishing each electrical utility’s standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section.”
2. Section 58-41-30 (A): “Within one hundred and twenty days of the effective date of this chapter, subject to subsection (F), each electrical utility shall file a proposed voluntary renewable energy program for review and approval by the Commission. The Commission shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program.”
3. Section 58-41-30 (D): “A participating customer shall bear the burden of any reasonable costs associated with participating in a voluntary renewable energy program. An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section.”
4. Section 58-41-30(F): “If the Commission determines that an electrical utility has a voluntary renewable energy program on file with the Commission as of the effective date of this chapter, that conforms with the requirements of this section, the utility is not required to make a new filing to meet the requirements of subsection (A).”

Due to the pending change of law and for judicial economy purposes, ORS recommends the Companies be allowed additional time to review and adjust, if necessary, aspects of the GSA Programs to conform to the provisions of the Act. Subsequent to the Companies’ review, the Companies should inform the Commission of any amendments such that the Commission may conduct an appropriate proceeding to review the GSA Programs.

Sincerely,



Andrew M. Bateman

Encl.

cc: All Parties of Record (via E-mail)
Joseph Melchers, Esquire (via E-mail)

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 AS PASSED BY THE SENATE

5 May 8, 2019

6

7

H. 3659

8

9 Introduced by Reps. McCoy, Rose, Ballentine, Wooten,
10 W. Newton, Mack, Sottile, Clary, Erickson, Herbkersman,
11 Pendarvis, Stavrinakis, Ott, Gilliard, Bennett, Caskey, Murphy,
12 Bernstein, Mace, Young, Garvin, Cobb-Hunter, Norrell, Thigpen,
13 Hyde, Jefferson, R. Williams, Funderburk, Huggins, Anderson,
14 Hardee, Cogswell, Tallon, Sandifer, West, Gagnon, Forrester,
15 Blackwell, Spires, Calhoun, B. Cox, Elliott, Morgan, Loftis,
16 Bradley, Willis, Toole, Henderson-Myers, Daning and B. Newton

17

18 S. Printed 5/8/19--S.

19 Read the first time February 26, 2019.

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9 **A BILL**

10
11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, TO ENACT THE "SOUTH CAROLINA ENERGY
13 FREEDOM ACT" BY ADDING SECTION 58-27-845 SO AS TO
14 ENUMERATE SPECIFIC RIGHTS OWED TO EVERY
15 ELECTRICAL UTILITY CUSTOMER IN SOUTH CAROLINA;
16 BY ADDING SECTION 58-27-2350 SO AS TO PROVIDE FOR
17 JUDICIAL REVIEW OF VIOLATIONS OF AN ELECTRICAL
18 UTILITY CUSTOMER'S RIGHTS; BY ADDING CHAPTER 41
19 TO TITLE 58 SO AS TO DEFINE RELEVANT TERMS, TO
20 REQUIRE PERIODIC HEARINGS TO REVIEW AND
21 APPROVE ELECTRICAL UTILITIES' AVOIDED COST
22 METHODOLOGIES, STANDARD OFFERS, FORM
23 CONTRACTS, AND COMMITMENT TO SELL FORMS, AND
24 TO ESTABLISH POLICIES AND PROCEDURES FOR THESE
25 HEARINGS, TO REQUIRE EACH ELECTRICAL UTILITY TO
26 FILE A VOLUNTARY RENEWABLE ENERGY PROGRAM
27 FOR THE COMMISSION'S REVIEW AND APPROVAL AND
28 TO ENUMERATE PROGRAM REQUIREMENTS, TO
29 REQUIRE EACH ELECTRICAL UTILITY TO ESTABLISH A
30 NEIGHBORHOOD COMMUNITY SOLAR PROGRAM PLAN
31 WITH A GOAL TO EXPAND ACCESS TO SOLAR ENERGY TO
32 LOW-INCOME COMMUNITIES AND CUSTOMERS, AND TO
33 ENUMERATE PROGRAM REQUIREMENTS; TO AMEND
34 SECTION 58-4-10, AS AMENDED, RELATING TO THE
35 OFFICE OF REGULATORY STAFF, SO AS TO REVISE THE
36 DEFINITION OF "PUBLIC INTEREST"; TO AMEND SECTION
37 58-27-460, RELATING TO THE PROMULGATION OF
38 STANDARDS FOR INTERCONNECTION OF RENEWABLE
39 ENERGY, SO AS TO, AMONG OTHER THINGS, INCREASE
40 THE MAXIMUM GENERATION CAPACITY OF THOSE
41 RENEWABLE ENERGY FACILITIES FOR WHICH THE
42 PUBLIC SERVICE COMMISSION SHALL PROMULGATE

1 INTERCONNECTION STANDARDS; TO AMEND SECTION
2 58-27-2610, RELATING TO LEASES OF RENEWABLE
3 ELECTRIC GENERATION FACILITIES, SO AS TO, AMONG
4 OTHER THINGS, REMOVE THE SOLAR LEASING CAP; TO
5 AMEND SECTION 58-33-110, RELATING TO REQUIRED
6 PRECONSTRUCTION CERTIFICATIONS FOR MAJOR
7 UTILITY FACILITIES, SO AS TO PROVIDE THAT A PERSON
8 MAY NOT BEGIN CONSTRUCTION OF A MAJOR UTILITY
9 FACILITY WITHOUT FIRST HAVING MADE A
10 DEMONSTRATION THAT THE FACILITY HAS BEEN
11 SELECTED THROUGH AN INDEPENDENTLY MONITORED,
12 ALL-SOURCE, PROCUREMENT PROCESS OVERSEEN BY
13 AN INDEPENDENT EVALUATOR CHOSEN BY THE OFFICE
14 OF REGULATORY STAFF; TO AMEND SECTION 58-33-140,
15 RELATING TO THE PARTIES TO CERTIFICATION
16 PROCEEDINGS, SO AS TO PROVIDE THAT THE PARTIES
17 SHALL INCLUDE ANY INDEPENDENT POWER PRODUCER
18 THAT IS PROPOSING AN ALTERNATIVE TO THE MAJOR
19 UTILITY FACILITY; TO AMEND SECTION 58-37-40,
20 RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO
21 PROVIDE FOR THE EVALUATION OF THE ADOPTION OF
22 RENEWABLE ENERGY, ENERGY EFFICIENCY, AND
23 DEMAND RESPONSE IN INTEGRATED RESOURCE PLANS
24 AND TO PROVIDE FOR CERTAIN REPORTING
25 REQUIREMENTS; TO AMEND SECTION 58-40-10,
26 RELATING TO DEFINITIONS APPLICABLE TO NET
27 ENERGY METERING, SO AS TO REVISE THE DEFINITION
28 OF "CUSTOMER-GENERATOR"; AND TO AMEND SECTION
29 58-40-20, RELATING TO NET ENERGY METERING, SO AS
30 TO REQUIRE ELECTRICAL UTILITIES TO MAKE NET
31 ENERGY METERING AVAILABLE TO
32 CUSTOMER-GENERATORS UNTIL THE TOTAL INSTALLED
33 NAMEPLATE GENERATING CAPACITY OF NET ENERGY
34 METERING SYSTEMS EQUALS AT LEAST TWO PERCENT
35 OF THE PREVIOUS FIVE-YEAR AVERAGE OF THE
36 ELECTRICAL UTILITY'S SOUTH CAROLINA RETAIL PEAK
37 DEMAND AND TO PROVIDE FOR A SUCCESSOR NET
38 ENERGY METERING TARIFF.

39 Amend Title To Conform

40

41 Be it enacted by the General Assembly of the State of South
42 Carolina:

43

1 SECTION 1. Title 58 of the 1976 Code is amended by adding:

2
3 "CHAPTER 41

4
5 Renewable Energy Programs

6
7 Section 58-41-05. The commission is directed to address all
8 renewable energy issues in a fair and balanced manner, considering
9 the costs and benefits to all customers of all programs and tariffs
10 that relate to renewable energy and energy storage, both as part of
11 the utility's power system and as direct investments by customers
12 for their own energy needs and renewable goals. The commission
13 also is directed to ensure that the revenue recovery, cost allocation,
14 and rate design of utilities that it regulates are just and reasonable
15 and properly reflect changes in the industry as a whole, the benefits
16 of customer renewable energy, energy efficiency, and demand
17 response, as well as any utility or state-specific impacts unique to
18 South Carolina which are brought about by the consequences of this
19 act.

20
21 Section 58-41-10. As used in this chapter:

22 (1) 'AC' means alternating current as measured at the point of
23 interconnection of the small power producer's facility to the
24 interconnecting electrical utility's transmission or distribution
25 system.

26 (2) 'Avoided costs' means the incremental costs to an electric
27 utility of electric energy or capacity or both which, but for the
28 purchase from the qualifying facility or qualifying facilities, such
29 utility would generate itself or purchase from another source.

30 (3) 'Commission' means the South Carolina Public Service
31 Commission.

32 (4) 'Electrical utility' is defined as set forth in Section
33 58-27-10(7), provided, however, that electrical utilities serving less
34 than one hundred thousand customer accounts must be exempt from
35 the provisions of this chapter. A renewable energy supplier
36 participating in an electrical utility's voluntary renewable energy
37 program pursuant to this chapter must not be considered an
38 electrical utility for purposes of this chapter.

39 (5) 'Eligible customer' means a retail customer with a new or
40 existing contract demand greater than or equal to one megawatt at a
41 single-metered location or aggregated across multiple-metered
42 locations.

1 (6) 'Generation credit' means a credit applied by an electrical
2 utility to the bill of a participating customer that is equal to the value
3 of the energy and capacity avoided by the electrical utility as a result
4 of procuring energy and capacity from a renewable energy facility.

5 (7) 'Participating customer' means an eligible customer that
6 elects to have a portion or all of its electricity needs supplied by a
7 voluntary renewable energy program.

8 (8) 'Participating customer agreement' means an agreement
9 between a participating customer, its electrical utility, and the
10 renewable energy supplier establishing each party's rights and
11 obligations under the electrical utility's voluntary renewable energy
12 program.

13 (9) 'Power purchase agreement' means an agreement between
14 an electrical utility and a small power producer for the purchase and
15 sale of energy, capacity, and ancillary services from the small power
16 producer's qualifying small power production facility.

17 (10) 'PURPA' means the Public Utility Regulatory Policies Act
18 of 1978, as amended.

19 (11) 'Renewable energy contract' means a power purchase
20 agreement between an electrical utility and a renewable energy
21 supplier that commits the parties to participating in an electrical
22 utility's voluntary renewable energy program for the purchase and
23 sale of energy and capacity.

24 (12) 'Renewable energy facility' means a facility for the
25 production of electrical energy that utilizes a renewable generation
26 resource as defined in Section 58-39-120(F), that is placed in service
27 after the effective date of this chapter, and for which costs are not
28 included in an electrical utility's rates.

29 (13) 'Renewable energy supplier' means the owner or operator of
30 a renewable energy facility, including the affiliate of an electrical
31 utility that contracts with a participating customer.

32 (14) 'Small power producer' means a person or corporation
33 owning or operating a 'qualifying small power production facility'
34 as defined in 16 U.S.C. Section 796, as amended.

35 (15) 'Standard offer' means the avoided cost rates, power
36 purchase agreement, and terms and conditions approved by the
37 commission and applicable to purchases of energy and capacity by
38 electrical utilities as provided in this chapter from small power
39 producers up to two megawatts AC in size.

40 (16) 'Voluntary renewable energy program' means a tariff filed
41 with the commission by an electrical utility that enables a
42 participating commercial or industrial customer to receive and pay
43 for electric service, that reflects the program cost, and that includes

1 the environmental attributes specified in the participating customer
2 agreement and renewable energy contract, including a generation
3 credit for such renewable energy, from the electrical utility pursuant
4 to the terms of the tariff.

5
6 Section 58-41-20. (A) As soon as is practicable after the
7 effective date of this chapter, the commission shall open a docket
8 for the purpose of establishing each electrical utility's standard
9 offer, avoided cost methodologies, form contract power purchase
10 agreements, commitment to sell forms, and any other terms or
11 conditions necessary to implement this section. Within six months
12 after the effective date of this chapter, and at least once every
13 twenty-four months thereafter, the commission shall approve each
14 electrical utility's standard offer, avoided cost methodologies, form
15 contract power purchase agreements, commitment to sell forms, and
16 any other terms or conditions necessary to implement this section.
17 Within such proceeding the commission shall approve one or more
18 standard form power purchase agreements for use for qualifying
19 small power production facilities not eligible for the standard offer.
20 Such power purchase agreements shall contain provisions,
21 including, but not limited to, provisions for force majeure,
22 indemnification, choice of venue, and confidentiality provisions and
23 other such terms, but shall not be determinative of price or length of
24 the power purchase agreement. The commission may approve
25 multiple form power purchase agreements to accommodate various
26 generation technologies and other project specific characteristics.
27 This provision shall not restrict the right of parties to enter into
28 power purchase agreements with terms that differ from the
29 commission-approved form(s). Any decisions by the commission
30 shall be just and reasonable to the ratepayers of the electrical utility,
31 in the public interest, consistent with PURPA and the Federal
32 Energy Regulatory Commission's implementing regulations and
33 orders, and nondiscriminatory to small power producers; and shall
34 strive to reduce the risk placed on the using and consuming public.

35 (1) Proceedings conducted pursuant to this section
36 shall be separate from the electrical utilities' annual fuel cost
37 proceedings conducted pursuant to Section 58-27-865.

38 (2) Proceedings shall include an opportunity for
39 intervention, discovery, filed comments or testimony, and an
40 evidentiary hearing.

41 (B) In implementing this chapter, the commission shall treat
42 small power producers on a fair and equal footing with electrical
43 utility-owned resources by ensuring that:

1 (1) rates for the purchase of energy and capacity fully and
2 accurately reflect the electrical utility's avoided costs;

3 (2) power purchase agreements, including terms and
4 conditions, are commercially reasonable and consistent with
5 regulations and orders promulgated by the Federal Energy
6 Regulatory Commission implementing PURPA; and

7 (3) each electrical utility's avoided cost methodology fairly
8 accounts for costs avoided by the electrical utility or incurred by the
9 electrical utility, including, but not limited to, energy, capacity, and
10 ancillary services provided by or consumed by small power
11 producers including those utilizing energy storage equipment.
12 Avoided cost methodologies approved by the commission may
13 account for differences in costs avoided based on the geographic
14 location and resource type of a small power producer's qualifying
15 small power production facility.

16 (C) The avoided cost rates offered by an electrical utility to a
17 small power producer not eligible for the standard offer must be
18 calculated based on the avoided cost methodology most recently
19 approved by the commission. In the event that a small power
20 producer and an electrical utility are unable to mutually agree on an
21 avoided cost rate, the small power producer shall have the right to
22 have any disputed issues resolved by the commission in a formal
23 complaint proceeding. The commission may require mediation prior
24 to a formal complaint proceeding.

25 (D) A small power producer shall have the right
26 to sell the output of its facility to the electrical utility at the avoided
27 cost rates and pursuant to the power purchase agreement then in
28 effect by delivering an executed notice of commitment to sell form
29 to the electrical utility. The commission shall approve a standard
30 notice of commitment to sell form to be used for this purpose that
31 provides the small power producer a reasonable period of time from
32 its submittal of the form to execute a power purchase agreement. In
33 no event, however, shall the small power producer, as a condition of
34 preserving the pricing and terms and conditions established by its
35 submittal of an executed commitment to sell form to the electrical
36 utility, be required to execute a power purchase agreement prior to
37 receipt of a final interconnection agreement from the electrical
38 utility.

39 (E)(1) Electrical utilities shall file with the commission power
40 purchase agreements entered into pursuant to PURPA, resulting
41 from voluntary negotiation of contracts between an electrical utility
42 and a small power producer not eligible for the standard offer.

1 (2) The commission is authorized to open a generic docket for
2 the purposes of creating programs for the competitive procurement
3 of energy and capacity from renewable energy facilities by an
4 electrical utility within the utility's balancing authority area if the
5 commission determines such action to be in the public interest.

6 (3) In establishing standard offer and form contract power
7 purchase agreements, the commission shall consider whether such
8 power purchase agreements should prohibit any of the following:

9 (a) termination of the power purchase agreement, collection of
10 damages from small power producers, or commencement of the
11 term of a power purchase agreement prior to commercial operation,
12 if delays in achieving commercial operation of the small power
13 producer's facility are due to the electrical utility's interconnection
14 delays; or

15 (b) the electrical utility reducing the price paid to the small
16 power producer based on costs incurred by the electrical utility to
17 respond to the intermittent nature of electrical generation by the
18 small power producer.

19 (F)(1) Electrical utilities, subject to approval of the commission,
20 shall offer to enter into fixed price power purchase agreements with
21 small power producers for the purchase of energy and capacity at
22 avoided cost, with commercially reasonable terms and a duration of
23 ten years. The commission may also approve commercially
24 reasonable fixed price power purchase agreements with a duration
25 longer than ten years, which must contain additional terms,
26 conditions, and/or rate structures as proposed by intervening parties
27 and approved by the commission, including but not limited to, a
28 reduction in the contract price relative to the ten year avoided cost.
29 Notwithstanding any other language to the contrary, the commission
30 will make such a determination in proceedings conducted pursuant
31 to Section 58-41-20(A). The avoided cost rates applicable to fixed
32 price power purchase agreements entered into pursuant to this item
33 shall be based on the avoided cost rates and methodologies as
34 determined by the commission pursuant to this section. The terms
35 of this subsection apply only to those small power producers whose
36 qualifying small power production facilities have active
37 interconnection requests on file with the electrical utility prior to the
38 effective date of this act. The commission may determine any other
39 necessary terms and conditions deemed to be in the best interest of
40 the ratepayers. This item is not intended, and shall not be construed,
41 to abrogate small power producers' rights under PURPA that existed
42 prior to the effective date of the act.

1 (2) Once an electrical utility has executed interconnection
2 agreements and power purchase agreements with qualifying small
3 power production facilities located in South Carolina with an
4 aggregate nameplate capacity equal to twenty percent of the
5 previous five-year average of the electrical utility's South Carolina
6 retail peak load, that electrical utility shall offer to enter into fixed
7 price power purchase agreements with small power producers for
8 the purchase of energy and capacity at avoided cost, with the terms,
9 conditions, rates, and terms of length for contracts as determined by
10 the commission in a separate docket or in a proceeding conducted
11 pursuant to Section 58-41-20(A). The commission is expressly
12 directed to consider the potential benefits of terms with a longer
13 duration to promote the state's policy of encouraging renewable
14 energy.

15 (G) Nothing in this section prohibits the commission from
16 adopting various avoided cost methodologies or amending those
17 methodologies in the public interest.

18 (H) Unless otherwise agreed to between the electrical utility
19 and the small power producer, a power purchase agreement entered
20 into pursuant to PURPA may not allow curtailment of qualifying
21 facilities in any manner that is inconsistent with PURPA or
22 implementing regulations and orders promulgated by the Federal
23 Energy Regulatory Commission.

24 (I) The commission is authorized to employ, through contract
25 or otherwise, third-party consultants and experts in carrying out its
26 duties under this section, including, but not limited to, evaluating
27 avoided cost rates, methodologies, terms, calculations, and
28 conditions under this section. The commission is exempt from
29 complying with the State Procurement Code in the selection and
30 hiring of a third-party consultant or expert authorized by this
31 subsection. The commission shall engage, for each utility, a
32 qualified independent third party to submit a report that includes the
33 third party's independently derived conclusions as to that third
34 party's opinion of each utility's calculation of avoided costs for
35 purposes of proceedings conducted pursuant to this section. The
36 qualified independent third party is subject to the same ex parte
37 prohibitions contained in Chapter 3, Title 58 as all other parties. The
38 qualified independent third party shall submit all requests for
39 documents and information necessary to their analysis under the
40 authority of the commission and the commission shall have full
41 authority to compel response to the requests. The qualified
42 independent third party's duty will be to the commission. Any
43 conclusions based on the evidence in the record and included in the

1 report are intended to be used by the commission along with all other
2 evidence submitted during the proceeding, to inform its ultimate
3 decision setting the avoided costs for each electrical utility. The
4 utilities may require confidentiality agreements with the
5 independent third party that do not impede the third-party analysis.
6 The utilities shall be responsive in providing all documents,
7 information, and items necessary for the completion of the report.
8 The independent third party shall also include in the report a
9 statement assessing the level of cooperation received from the utility
10 during the development of the report and whether there were any
11 material information requests that were not adequately fulfilled by
12 the electrical utility. Any party to this proceeding shall be able to
13 review the report including the confidential portions of the report
14 upon entering into an appropriate confidentiality agreement. The
15 commission and the Office of Regulatory Staff may not hire the
16 same third-party consultant or expert in the same proceeding or to
17 address the same or similar issues in different proceedings.

18 (J) Each electrical utility's avoided cost filing must be
19 reasonably transparent so that underlying assumptions, data, and
20 results can be independently reviewed and verified by the parties
21 and the commission. The commission may approve any
22 confidentiality protections necessary to allow for independent
23 review and verification of the avoided cost filing.

24
25 Section 58-41-30. (A) Within one hundred and twenty days of
26 the effective date of this chapter, subject to subsection (F), each
27 electrical utility shall file a proposed voluntary renewable energy
28 program for review and approval by the commission. The
29 commission shall conduct a proceeding to review the program and
30 establish reasonable terms and conditions for the program.
31 Interested parties shall have the right to participate in the
32 proceeding. The commission may periodically hold additional
33 proceedings to update the program. At a minimum, the program
34 shall provide that:

35 (1) the participating customer shall have the right to select the
36 renewable energy facility and negotiate with the renewable energy
37 supplier on the price to be paid by the participating customer for the
38 energy, capacity, and environmental attributes of the renewable
39 energy facility and the term of such agreement so long as such terms
40 are consistent with the voluntary renewable program service
41 agreement as approved by the commission;

42 (2) the renewable energy contract and the participating
43 customer agreement must be of equal duration;

1 (3) in addition to paying a retail bill calculated pursuant to the
2 rates and tariffs that otherwise would apply to the participating
3 customer, reduced by the amount of the generation credit, a
4 participating customer shall reimburse the electrical utility on a
5 monthly basis for the amount paid by the electrical utility to the
6 renewable energy supplier pursuant to the participating customer
7 agreement and renewable energy contract, plus an administrative fee
8 approved by the commission; and

9 (4) eligible customers must be allowed to bundle their
10 demand under a single participating customer agreement and
11 renewable energy contract and must be eligible annually to procure
12 an amount of capacity as approved by the commission.

13 (B) The commission may approve a program that provides for
14 options that include, but are not limited to, both variable and fixed
15 generation credit options.

16 (C) The commission may limit the total portion of each electrical
17 utility's voluntary renewable energy program that is eligible for the
18 program at a level consistent with the public interest and shall
19 provide standard terms and conditions for the participating customer
20 agreement and the renewable energy contract, subject to
21 commission review and approval.

22 (D) A participating customer shall bear the burden of any
23 reasonable costs associated with participating in a voluntary
24 renewable energy program. An electrical utility may not charge any
25 nonparticipating customers for any costs incurred pursuant to the
26 provisions of this section.

27 (E) A renewable energy facility may be located anywhere in the
28 electrical utility's service territory within the utility's balancing
29 authority.

30 (F) If the commission determines that an electrical utility has a
31 voluntary renewable energy program on file with the commission as
32 of the effective date of this chapter, that conforms with the
33 requirements of this section, the utility is not required to make a new
34 filing to meet the requirements of subsection (A).

35
36 Section 58-41-40. (A) It is the intent of the General Assembly
37 to expand the opportunity to support solar energy and support access
38 to solar energy options for all South Carolinians, including those
39 who lack the income to afford the upfront investment in solar panels
40 or those who do not own their homes or have suitable rooftops. The
41 General Assembly encourages all electric service providers in this
42 state to consider offering neighborhood community solar programs.

1 (B)(1) Within sixty days after the effective date of this chapter,
2 the commission shall open a docket for each electrical utility to
3 review the community solar programs established pursuant to Act
4 236 of 2014 and to solicit status information on existing programs
5 from the electrical utilities.

6 (2) Within one hundred and eighty days after the commission
7 opens the docket pursuant to item (1), the electrical utilities shall
8 update their report on their existing programs and may propose new
9 programs.

10 (C) Subject to review by the commission, a public utility must
11 be entitled to full and timely cost recovery for all reasonable and
12 prudent costs incurred in implementing and complying with this
13 section. Participating customers shall bear the burden of any
14 reasonable and prudent costs associated with participating in a
15 neighborhood community solar program; however, the commission
16 shall nonetheless promote access to solar energy projects for low
17 and moderate income customers. An electrical utility may not
18 charge any nonparticipating customers for any costs incurred
19 pursuant to the provisions of this section.”

20
21 SECTION 2. Article 7, Chapter 27, Title 58 of the 1976 Code is
22 amended by adding:

23
24 “Section 58-27-845. (A) The General Assembly finds that there
25 is a critical need to:

26 (1) protect customers from rising utility costs;

27 (2) provide opportunities for customer measures to reduce or
28 manage electrical consumption from electrical utilities in a manner
29 that contributes to reductions in utility peak electrical demand and
30 other drivers of electrical utility costs; and

31 (3) equip customers with the information and ability to
32 manage their electric bills.

33 (B) Every customer of an electrical utility has the right to a rate
34 schedule that offers the customer a reasonable opportunity to
35 employ such energy and cost saving measures as energy efficiency,
36 demand response, or onsite distributed energy resources in order to
37 reduce consumption of electricity from the electrical utility’s grid
38 and to reduce electrical utility costs.

39 (C) In fixing just and reasonable utility rates pursuant to Section
40 58-3-140 and Section 58-27-810, the commission shall consider
41 whether rates are designed to discourage the wasteful use of public
42 utility services while promoting all use that is economically justified
43 in view of the relationships between cost incurred and benefits

1 received, and that no one class of customers are unduly burdening
2 another, and that each customer class pays, as close as practicable,
3 the cost of providing service to them.

4 (D) For each class of service, the commission must ensure that
5 each electrical utility offers to each class of service a minimum of
6 one reasonable rate option that aligns the customer's ability to
7 achieve bill savings with long-term reductions in the overall cost the
8 electrical utility will incur in providing electric service, including,
9 but not limited to time-variant pricing structures.

10 (E) Every customer of an electrical utility has a right to obtain
11 their own electric usage data in a machine-readable, accessible
12 format to the extent such is readily available. Electrical utilities shall
13 allow customers an electronic means to assent to share the
14 customer's energy usage data with a third-party vendor designated
15 by the customer."

16
17 SECTION 3. Section 58-40-10(C) of the 1976 Code is amended to
18 read:

19
20 "(C) 'Customer-generator' means the owner, operator, lessee, or
21 customer-generator lessee of an electric energy generation unit
22 which:

23 (1) generates or discharges electricity from a renewable
24 energy resource, including an energy storage device configured to
25 receive electrical charge solely from an onsite renewable energy
26 resource;

27 (2) has an electrical generating system with a capacity of:

28 (a) not more than the lesser of one thousand kilowatts
29 (1,000 kW AC) or one hundred percent of contract demand if a
30 nonresidential customer; or

31 (b) not more than twenty kilowatts (20 kW AC) if a
32 residential customer;

33 (3) is located on a single premises owned, operated, leased, or
34 otherwise controlled by the customer;

35 (4) is interconnected and operates in parallel phase and
36 synchronization with an electrical utility and complies with the
37 applicable interconnection standards;

38 (5) is intended primarily to offset part or all of the
39 customer-generator's own electrical energy requirements; and

40 (6) meets all applicable safety, performance, interconnection,
41 and reliability standards established by the commission, the
42 National Electrical Code, the National Electrical Safety Code, the
43 Institute of Electrical and Electronics Engineers, Underwriters

1 Laboratories, the federal Energy Regulatory Commission, and any
 2 local governing authorities.”

3
 4 SECTION 4. Section 58-40-10 of the 1976 Code is amended by
 5 adding an appropriately lettered subsection at the end to read:

6
 7 “() ‘Solar choice metering measurement’ means the process,
 8 method, or calculation used for purposes of billing and crediting at
 9 the commission determined value.”

10
 11 SECTION 5. Section 58-40-20 of the 1976 Code is amended to
 12 read:

13
 14 ~~“Section 58-40-20. (A) Net energy metering rates approved by~~
 15 ~~the commission under the terms of this chapter shall be the exclusive~~
 16 ~~net energy metering rates available to customer generators. Upon~~
 17 ~~commission approval, such net energy metering rates shall~~
 18 ~~supersede all prior net energy metering rates. Customer generators~~
 19 ~~whose net energy metering facilities were energized prior to the~~
 20 ~~availability of net energy metering rates approved by the~~
 21 ~~commission under the terms of this chapter may remain in historic~~
 22 ~~net energy metering programs through December 31, 2020.~~

23 (B) ~~An electrical utility shall make net energy metering available~~
 24 ~~to customer generators on a first come, first served basis until the~~
 25 ~~total nameplate generating capacity of net energy metering systems~~
 26 ~~equals two percent of the previous five year average of the electrical~~
 27 ~~utility’s South Carolina retail peak demand. No electrical utility~~
 28 ~~shall be required to approve any application for interconnection~~
 29 ~~from net energy metering customer generators if the total rated~~
 30 ~~generating capacity of all applications for interconnection from net~~
 31 ~~energy metering customer generators already approved to date by~~
 32 ~~the electrical utility equals or exceeds two percent of the previous~~
 33 ~~five year average of the electrical utility’s South Carolina retail peak~~
 34 ~~demand.~~

35 (C) ~~If determined to be prudent by the commission, the electrical~~
 36 ~~utility may furnish, install, own, and maintain metering equipment~~
 37 ~~needed to measure the kilowatt-hours purchased by the~~
 38 ~~customer generator from the utility, the kilowatt-hours generated or~~
 39 ~~delivered to the electrical utility, and, if applicable under the utility’s~~
 40 ~~tariffs, to measure the kilowatt demand delivered by the electrical~~
 41 ~~utility to the customer generator. The electrical utility shall have the~~
 42 ~~right to install special metering and load research devices on the~~
 43 ~~customer generator’s equipment and the right to use the~~

1 ~~customer generator's communication devices for communication~~
2 ~~with electrical utility's and the customer generator's equipment.~~

3 ~~(D) The net electrical energy measurement shall be calculated in~~
4 ~~the following manner:~~

5 ~~(1) For a customer generator, an electrical utility shall measure~~
6 ~~the net electrical energy produced or consumed during the billing~~
7 ~~period in accordance with normal metering practices for customers~~
8 ~~in the same rate class, either by employing a single, bidirectional~~
9 ~~meter that measures the amount of electrical energy produced and~~
10 ~~consumed, or by employing multiple meters that separately measure~~
11 ~~the customer generator's consumption and production of electricity;~~

12 ~~(2) If the electricity supplied by the electrical utility exceeds~~
13 ~~the electricity generated by the customer generator during a billing~~
14 ~~period, the customer generator shall be billed for the net electricity~~
15 ~~supplied by the electrical utility in accordance with normal practices~~
16 ~~for customers in the same rate class;~~

17 ~~(3) Any energy generated by the customer generator that~~
18 ~~exceeds the energy supplied by the electrical utility during a billing~~
19 ~~period shall not be used to offset the nonvolumetric electricity~~
20 ~~charges for that billing period;~~

21 ~~(4) The utility shall maintain an account of any net excess kWh~~
22 ~~credits accruing from the customer generator's excess generation~~
23 ~~and allow those kWh credits to be used to offset the~~
24 ~~customer generator's energy usage during future billing periods.~~
25 ~~Annually, the utility shall pay the customer generator for any~~
26 ~~accrued net excess generation at the utility's avoided cost for~~
27 ~~qualified facilities, zeroing out the customer generator's account of~~
28 ~~net excess kWh credits.~~

29 ~~(E) Each electrical utility shall submit an annual net metering~~
30 ~~report to the Public Service Commission, with a copy to the Office~~
31 ~~of Regulatory Staff, including the following information for the~~
32 ~~previous calendar year:~~

33 ~~(1) the total number of customer generator facilities;~~

34 ~~(2) the estimated gross generating capacity of its net metered~~
35 ~~customer generators;~~

36 ~~(3) the estimated net kilowatt hours received from~~
37 ~~customer generators.~~

38 ~~(F) Any and all costs prudently incurred pursuant to the~~
39 ~~provisions of this chapter by an electrical utility as approved by the~~
40 ~~commission and any and all commission approved benefits~~
41 ~~conferred by a customer generator shall be recoverable by each~~
42 ~~entity respectively in the electrical utility's rates in accordance with~~
43 ~~these provisions:~~

1 ~~(1) The electrical utility's general rates, tariffs, and any~~
2 ~~additional monthly charges or credits, in addition to any other~~
3 ~~charges or credits authorized by law, to recover the costs and confer~~
4 ~~the benefits of net energy metering shall include such measures~~
5 ~~necessary to ensure that the electrical utility recovers its cost of~~
6 ~~providing electrical service to customer generators and customers~~
7 ~~who are not customer generators.~~

8 ~~(2) Any charges or credits prescribed in item (1), and the terms~~
9 ~~and conditions under which they may be assessed shall be in~~
10 ~~accordance with a methodology established through the proceeding~~
11 ~~described in item (4). The methodology shall be supported by an~~
12 ~~analysis and calculation of the relative benefits and costs of~~
13 ~~customer generation to the electrical utility, the~~
14 ~~customer generators, and those customers of the electrical utility~~
15 ~~that are not customer generators.~~

16 ~~(3) Upon approval of the methodology provided for in item (4),~~
17 ~~each electrical utility shall file its analysis of the net cost to serve~~
18 ~~customer generators using the approved methodology and shall~~
19 ~~propose new net energy metering rates.~~

20 ~~(4) No later than thirty days after the enactment of this act, the~~
21 ~~commission shall initiate a generic proceeding for purposes of~~
22 ~~implementing the requirements of this chapter with respect to the~~
23 ~~net energy metering rates, tariffs, charges, and credits of electrical~~
24 ~~utilities, specifically to establish the methodology to set any~~
25 ~~necessary charges and credits as required under items (1) and (2).~~
26 ~~All interested parties shall be allowed to participate. In its notice~~
27 ~~initiating such proceeding the commission must require the~~
28 ~~electrical utilities to propose methodologies required by item (1) and~~
29 ~~shall allow intervening parties to propose methodologies required~~
30 ~~by item (2). The Office of Regulatory Staff, pursuant to the~~
31 ~~requirements of Section 58 4 50, shall represent the public interest~~
32 ~~in this proceeding and shall serve as a facilitator to resolve disputes~~
33 ~~and issues between the parties to this proceeding.~~

34 ~~(5) In evaluating the benefits and costs of customer generation~~
35 ~~as required by item (2), and the methodology for calculating such~~
36 ~~benefits and costs, the Office of Regulatory Staff may engage third~~
37 ~~parties with relevant prior experience conducting distributed~~
38 ~~generation cost benefit studies. The cost of any experts and~~
39 ~~consultants engaged by the Office of Regulatory Staff for purposes~~
40 ~~of this proceeding shall be assessed to the electrical utilities pro rata~~
41 ~~based on their five year average of retail peak demand and shall be~~
42 ~~recoverable by those electrical utilities through the base rate for fuel~~
43 ~~costs established pursuant to Section 58 27 865.~~

~~(6) In the event that the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree such benefits are not then being recovered by the electrical utility in its base rates, then such future benefits shall be deemed an avoided cost and shall be recoverable pursuant to Section 58-27-865 by the electrical utility as an incremental cost of the distributed energy resource program.~~

~~(G) In no event shall the net energy metering provisions of this chapter be construed as allowing customer generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.~~

~~(H) The commission shall approve an electrical utility's proposed net energy metering rates that meet the requirements of this chapter, provided that the commission has previously approved that electrical utility's application to participate in a distributed energy resource program pursuant to Chapter 39, Title 58.~~

(A) It is the intent of the General Assembly to:

(1) build upon the successful deployment of solar generating capacity through Act 236 of 2014 to continue enabling market-driven, private investment in distributed energy resources across the State by reducing regulatory and administrative burdens to customer installation and utilization of onsite distributed energy resources;

(2) avoid disruption to the growing market for customer-scale distributed energy resources; and

(3) require the commission to establish solar choice metering requirements that fairly allocate costs and benefits to eliminate any cost shift or subsidization associated with net metering to the greatest extent practicable.

(B) An electrical utility shall make net energy metering available to all customer-generators who apply before June 1, 2021, according to the terms and conditions provided to all parties in Commission Order No. 2015-194. Customer-generators who apply for net metering after the effective date of this act but before June 1, 2021, including subsequent owners of the customer-generator facility or premises, may continue net energy metering service as provided for in Commission Order No. 2015-194 until May 31, 2029.

(C) No later than January 1, 2020, the commission shall open a generic docket to:

(1) investigate and determine the costs and benefits of the current net energy metering program; and

1 (2) establish a methodology for calculating the value of the
 2 energy produced by customer-generators.

3 (D) In evaluating the costs and benefits of the net energy
 4 metering program, the commission shall consider:

5 (1) the aggregate impact of customer-generators on the
 6 electrical utility's long-run marginal costs of generation,
 7 distribution, and transmission;

8 (2) the cost of service implications of customer-generators on
 9 other customers within the same class, including an evaluation of
 10 whether customer-generators provide an adequate rate of return to
 11 the electrical utility compared to the otherwise applicable rate class
 12 when, for analytical purposes only, examined as a separate class
 13 within a cost of service study;

14 (3) the value of distributed energy resource generation
 15 according to the methodology approved by the commission in
 16 Commission Order No. 2015-194;

17 (4) the direct and indirect economic impact of the net energy
 18 metering program to the State; and

19 (5) any other information the commission deems relevant.

20 (E) The value of the energy produced by customer-generators
 21 must be updated annually and the methodology revisited every five
 22 years.

23 (F)(1) After notice and opportunity for public comment and
 24 public hearing, the commission shall establish a 'solar choice
 25 metering tariff' for customer-generators to go into effect for
 26 applications received after May 31, 2021.

27 (2) In establishing any successor solar choice metering tariffs,
 28 and in approving any future modifications, the commission shall
 29 determine how meter information is used for calculating the solar
 30 choice metering measurement that is just and reasonable in light of
 31 the costs and benefits of the solar choice metering program.

32 (3) A solar choice metering tariff shall include a methodology
 33 to compensate customer-generators for the benefits provided by
 34 their generation to the power system. In determining the appropriate
 35 billing mechanism and energy measurement interval, the
 36 commission shall consider:

37 (a) current metering capability and the cost of upgrading
 38 hardware and billing systems to accomplish the provisions of the
 39 tariff;

40 (b) the interaction of the tariff with time-variant rate
 41 schedules available to customer-generators and whether different
 42 measurement intervals are justified for customer-generators taking
 43 service on a time-variant rate schedule;

1 (c) whether additional mitigation measures are warranted
 2 to transition existing customer-generators; and

3 (d) any other information the commission deems relevant.

4 (G) In establishing a successor solar choice metering tariff, the
 5 commission is directed to:

6 (1) eliminate any cost shift to the greatest extent practicable
 7 on customers who do not have customer-sited generation while also
 8 ensuring access to customer-generator options for customers who
 9 choose to enroll in customer-generator programs; and

10 (2) permit solar choice customer-generators to use
 11 customer-generated energy behind the meter without penalty.

12 (H) The commission shall establish a minimum guaranteed
 13 number of years to which solar choice metering customers are
 14 entitled pursuant to the commission approved energy measurement
 15 interval and other terms of their agreement with the electrical utility.

16 (I) Nothing in this section, however, prohibits an electrical
 17 utility from continuing to recover distributed energy resource
 18 program costs in the manner and amount approved by Commission
 19 Order No. 2015-914 for customer-generators applying before June
 20 1, 2021. Such recovery shall remain in place until full cost recovery
 21 is realized. Electrical utilities are prohibited from recovering lost
 22 revenues associated with customer-generators who apply for
 23 customer-generator programs on or after June 1, 2021.

24 (J) Nothing in the section prohibits the commission from
 25 considering and establishing tariffs for another renewable energy
 26 resource.”

27
 28 SECTION 6. Section 58-27-2610 of the 1976 Code is amended to
 29 read:

30
 31 “Section 58-27-2610. (A) An entity that owns a renewable
 32 electric generation facility, located on a premises or residence
 33 owned or leased by an eligible customer-generator lessee to serve
 34 the electric energy requirements of that particular premises or
 35 residence or to enable the customer-generator lessee to obtain a
 36 credit for or engage in the sale of energy from the renewable electric
 37 generation facility to that customer-generator lessee’s retail electric
 38 provider or its designee, shall be permitted to lease such facility
 39 exclusively to a customer-generator lessee under a lease, provided
 40 that the entity complies with the terms, conditions, and restrictions
 41 set forth within this article and holds a valid certificate issued by the
 42 Office of Regulatory Staff. An entity owning renewable electric
 43 generation facilities in compliance with the terms of this article shall

1 not be considered an 'electrical utility' under Section 58-27-10 if the
2 renewable electric generation facilities are only made available to a
3 customer-generator lessee for the customer-generator lessee's use
4 on the customer-generator lessee's premises or the residence where
5 the renewable electric generation facilities are located, or for the sale
6 of energy to that customer-generator lessee's retail electric provider
7 or its designee, and pursuant to a lease.

8 (B) All customer-generator lessees that interconnect renewable
9 electric generation facilities to a retail electric provider's
10 transmission or distribution system must enroll in the applicable rate
11 schedules made available by that retail electric provider, ~~subject to~~
12 ~~the participation limitations set forth therein or in the policy adopted~~
13 ~~by the retail electric provider not subject to Section 58-40-20(B),~~
14 and the customer-generator lessee shall otherwise comply with all
15 requirements of Section 58-40-10, et seq., or the policy adopted by
16 the retail electric provider not subject to Section 58-40-10, et seq.

17 (C) To comply with the terms of this article, each
18 customer-generator lessee renewable electric generation facility
19 shall serve only one premises or residence, and shall not serve
20 multiple customer-generator lessees or multiple premises or
21 residences.

22 (D) Any lease of a renewable electric generation facility not
23 entered into pursuant to this article is prohibited. The owner of a
24 renewable electric generation facility subject to any lease entered
25 into outside of this program shall be considered an 'electrical utility'
26 under Section 58-27-10.

27 (E) This section shall not be construed as allowing any sales of
28 electricity from renewable electric generation facilities directly to
29 any customer of any retail electric provider by the owner. This
30 article shall not be construed as abridging or impairing any existing
31 rights or obligations, established by contract or statute, of retail
32 electric providers to serve South Carolina customers. The electrical
33 output from any renewable electric generation unit leased pursuant
34 to this program shall be the sole and exclusive property of the
35 customer-generator lessee.

36 (F) An entity and its affiliates that lawfully provide retail electric
37 service to the public may offer leases of renewable generation
38 facilities in those areas or territories where it provides retail electric
39 service. No such provider or affiliate shall offer or enter into leases
40 of renewable generation facilities in areas served by another retail
41 electric provider.

42 (G) The costs an electrical utility incurs in marketing, installing,
43 owning, or maintaining solar leases through its own leasing

1 programs as a lessor shall not be recovered from other
2 nonparticipating electrical utility customers through rates, provided,
3 however, that an electrical utility and the customer-generator lessees
4 which lease facilities from it may participate on an equal basis with
5 other lessors and lessees in any applicable programs provided
6 pursuant to Chapter 39 of this title and nothing in this section shall
7 prevent the reasonable and prudent costs of a utility's distributed
8 energy resource programs, including the provision of incentives to
9 its own lessees and other allowable costs, from being reflected in a
10 utility's rates as provided for in Chapter 39 or as otherwise permitted
11 under generally applicable regulatory principles.

12 ~~(H) The total installed capacity of all renewable electric~~
13 ~~generation facilities on a retail electric provider's system that are~~
14 ~~leased pursuant to this article shall not exceed two percent of the~~
15 ~~previous five year average of the retail electric provider's South~~
16 ~~Carolina residential and commercial contribution to coincident~~
17 ~~retail peak demand and two percent of the previous five year~~
18 ~~average of the retail electric provider's South Carolina industrial~~
19 ~~contribution to coincident retail peak demand. A provider may~~
20 ~~refuse to interconnect with customers where to do so would result~~
21 ~~in this limitation being exceeded. Every retail electric provider must~~
22 ~~establish a program for new installations of leased equipment to~~
23 ~~permit the reservation of capacity on its system including provisions~~
24 ~~to prevent or discourage abuse of such programs. Such programs~~
25 ~~must provide that only prospective individual customer generator~~
26 ~~lessees may apply for, receive, and hold reservations. Each~~
27 ~~reservation shall be for a single customer premises only and may not~~
28 ~~be sold, exchanged, traded, or assigned except as part of the sale of~~
29 ~~the underlying premises. Requests for reservations to electrical~~
30 ~~utilities as defined in Section 58-27-10 shall accompany~~
31 ~~applications for interconnection of the leased facilities pursuant to~~
32 ~~Chapter 40, Title 58 and the reservation shall remain in force only~~
33 ~~so long as the application or permit for interconnection remains~~
34 ~~active. Electrical utilities as defined in Section 58-27-10 shall~~
35 ~~submit programs establishing the terms of such reservations to the~~
36 ~~commission for approval.~~

37 ~~(I) Notwithstanding the provisions of subsection (H), for an~~
38 ~~electrical utility for which more than fifty percent of the electricity~~
39 ~~that it generates in South Carolina comes from renewable resources,~~
40 ~~the total installed capacity of all renewable electric generation~~
41 ~~facilities on its system that are leased pursuant to this article shall~~
42 ~~not exceed one-tenth of one percent of the previous five year~~
43 ~~average of the electrical utility's South Carolina residential and~~

~~commercial contribution to coincident retail peak demand and one tenth of one percent of the previous five year average of the electrical utility's South Carolina industrial contribution to coincident retail peak demand. Electrical utilities meeting the requirements of this subsection shall not be required to establish a capacity reservation program as required by subsection (H).~~

~~(J)(H)(1)~~ The provisions of this Article 23 related to leased generation facilities shall not apply to:

(a) facilities serving a single premises that are not interconnected with a retail electric provider;

(b) facilities owned by customer-generators but financed by a third party; or

(c) facilities used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.

(2) The commission may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities."

SECTION 7. Section 58-37-40 of the 1976 Code is amended to read:

~~"Section 58-37-40. (A) Electrical utilities and the South Carolina Public Service Authority must prepare integrated resource plans. The South Carolina Public Service Authority and electrical utilities regulated by the Public Service Commission must submit their plans to the State Energy Office. The plan submitted by the South Carolina Public Service Authority must be developed in consultation with electric cooperatives and municipally owned electric utilities purchasing power and energy from the authority and must include the effect of demand side management activities of electric cooperatives and municipally owned electric utilities which directly purchase power and energy from the authority or sell power and energy which the authority generates. All plans must be submitted every three years and must be updated on an annual basis. The first integrated resource plan of the South Carolina Public Service Authority must be submitted no later than June 30, 1993. An integrated resource plan may be patterned after the integrated resource planning process developed by the Public Service Commission. For electrical utilities subject to the jurisdiction of the commission, submission of their plans as required by the commission constitutes compliance with this section. Nothing in this subsection may be construed as requiring interstate natural gas~~

1 ~~companies whose rates and services are regulated only by the~~
 2 ~~federal government or gas utilities subject to the jurisdiction of the~~
 3 ~~South Carolina Public Service Commission to prepare and submit~~
 4 ~~an integrated resource plan. Electrical utilities, electric cooperatives,~~
 5 ~~municipally-owned electric utilities, and the South Carolina Public~~
 6 ~~Service Authority must each prepare an integrated resource plan. An~~
 7 ~~integrated resource plan must be prepared and submitted at least~~
 8 ~~every three years. Nothing in this section may be construed as~~
 9 ~~requiring interstate natural gas companies whose rates and services~~
 10 ~~are regulated only by the federal government or gas utilities subject~~
 11 ~~to the jurisdiction of the commission to prepare and submit an~~
 12 ~~integrated resource plan.~~

13 (1) Each electrical utility must submit its integrated resource
 14 plan to the commission. The integrated resource plan must be posted
 15 on the electrical utility's website and on the commission's website.

16 (2) (B) Electric cooperatives and municipally-owned electric
 17 utilities must shall each submit an integrated resource plans to the
 18 State Energy Office. Each integrated resource plan must be posted
 19 on the State Energy Office's website. If an electric cooperative or
 20 municipally-owned utility has a website, its integrated resource plan
 21 must also be posted on its website, whenever they are required by
 22 federal law to prepare these plans or if they plan to acquire, by
 23 purchase or construction, ownership of additional generating
 24 capacity greater than twelve megawatts per unit. An integrated
 25 resource plan must be submitted to the State Energy Office by an
 26 electric cooperative or municipally-owned electric utility twelve
 27 months before the acquisition, by purchase or construction, of
 28 additional generating capacity in excess of twelve megawatts per
 29 unit. For an electric cooperative, submission to the State Energy
 30 Office of its plan in a format complying with the then current Rural
 31 Electrification Administration regulations constitutes compliance
 32 with this section. For distribution electric cooperatives that are
 33 members of a cooperative that provides wholesale service, the
 34 integrated resource plan may be coordinated and consolidated into
 35 a single plan provided that non-shared resources or programs of
 36 individual distribution cooperatives are highlighted. Where plan
 37 components listed in item (B)(1) and (B)(2) of this section do not
 38 apply to a distribution or wholesale cooperative or a municipally
 39 owned electric utility as a result of the cooperative or the
 40 municipally owned electric utility not owning or operating
 41 generation resources, the plan may state that fact or refer to the plan
 42 of the wholesale power generator. For purposes of this section, a
 43 wholesale power generator does not include a municipally created

1 joint agency if that joint agency receives at least 75% of its
 2 electricity from a generating facility owned in partnership with an
 3 electrical utility and that electrical utility: (a) generally serves the
 4 area in which the joint agency's members are located; and (b) is
 5 responsible for dispatching the capacity and output of the generated
 6 electricity.

7 ~~(C) The State Energy Office, to the extent practicable, shall~~
 8 ~~evaluate and comment on external environmental and economic~~
 9 ~~consequences of each integrated resource plan submitted and on the~~
 10 ~~environmental and economic consequences for suppliers and~~
 11 ~~distributors.~~

12 (3) The South Carolina Public Service Authority shall submit
 13 its integrated resource plan to the State Energy Office. The
 14 integrated resource plan must be developed in consultation with the
 15 electric cooperatives and municipally-owned electric utilities
 16 purchasing power and energy from the Public Service Authority and
 17 consider any feedback provided by retail customers and shall
 18 include the effect of demand-side management activities of the
 19 electric cooperatives and municipally owned electric utilities that
 20 directly purchase power and energy from the Public Service
 21 Authority or sell power and energy generated by the Public Service
 22 Authority. The integrated resource plan must be posted on the State
 23 Energy Office's website and on the Public Service Authority's
 24 website.

25 ~~(B)(1)(D)The State Energy Office shall coordinate the~~
 26 ~~preparation of an integrated resource plan for the State and shall~~
 27 ~~coordinate with regional groups, including the Southern States~~
 28 ~~Energy Board. An integrated resource plan shall include all of the~~
 29 ~~following:~~

30 (a) a long-term forecast of the utility's sales and peak
 31 demand under various reasonable scenarios;

32 (b) the type of generation technology proposed for a
 33 generation facility contained in the plan and the proposed capacity
 34 of the generation facility, including fuel cost sensitivities under
 35 various reasonable scenarios;

36 (c) projected energy purchased or produced by the utility
 37 from a renewable energy resource;

38 (d) a summary of the electrical transmission investments
 39 planned by the utility;

40 (e) several resource portfolios developed with the purpose
 41 of fairly evaluating the range of demand-side, supply-side, storage,
 42 and other technologies and services available to meet the utility's
 43 service obligations. Such portfolios and evaluations must include an

1 evaluation of low, medium, and high cases for the adoption of
2 renewable energy and cogeneration, energy efficiency, and demand
3 response measures, including consideration of the following:

4 (i) customer energy efficiency and demand response
5 programs;

6 (ii) facility retirement assumptions; and

7 (iii) sensitivity analyses related to fuel costs,
8 environmental regulations, and other uncertainties or risks;

9 (f) data regarding the utility's current generation portfolio,
10 including the age, licensing status, and remaining estimated life of
11 operation for each facility in the portfolio;

12 (g) plans for meeting current and future capacity needs with
13 the cost estimates for all proposed resource portfolios in the plan;

14 (h) an analysis of the cost and reliability impacts of all
15 reasonable options available to meet projected energy and capacity
16 needs; and

17 (i) a forecast of the utility's peak demand, details regarding
18 the amount of peak demand reduction the utility expects to achieve,
19 and the actions the utility proposes to take in order to achieve that
20 peak demand reduction.

21 (2) An integrated resource plan may include distribution
22 resource plans or integrated system operation plans.

23 (C)(1) The commission shall have a proceeding to review each
24 electrical utility's integrated resource plan. As part of the integrated
25 resource plan filing, the commission shall allow intervention by
26 interested parties. The commission shall establish a procedural
27 schedule to permit reasonable discovery after an integrated resource
28 plan is filed in order to assist parties in obtaining evidence
29 concerning the integrated resource plan, including the
30 reasonableness and prudence of the plan and alternatives to the plan
31 raised by intervening parties. Not later than three hundred days after
32 an electrical utility files an integrated resource plan, the commission
33 shall issue a final order approving, modifying or denying the plan
34 filed by the electrical utility.

35 (2) The commission shall approve an electrical utility's
36 integrated resource plan if the commission determines that the
37 proposed integrated resource plan represents the most reasonable
38 and prudent means of meeting the electrical utility's energy and
39 capacity needs as of the time the plan is reviewed. To determine
40 whether the integrated resource plan is the most reasonable and
41 prudent means of meeting energy and capacity needs, the
42 commission, in its discretion, shall consider whether the plan
43 appropriately balances the following factors:

1 (a) resource adequacy and capacity to serve anticipated
 2 peak electrical load, and applicable planning reserve margins;
 3 (b) consumer affordability and least cost;
 4 (c) compliance with applicable state and federal
 5 environmental regulations;
 6 (d) power supply reliability;
 7 (e) commodity price risks;
 8 (f) diversity of generation supply; and
 9 (g) other foreseeable conditions that the commission
 10 determines to be for the public interest.

11 (3) If the commission modifies or rejects an electrical utility's
 12 integrated resource plan, the electrical utility, within sixty days after
 13 the date of the final order, shall submit a revised plan addressing
 14 concerns identified by the commission and incorporating
 15 commission mandated revisions to the integrated resource plan to
 16 the commission for approval. Within sixty days of the electrical
 17 utility's revised filing, the Office of Regulatory Staff shall review
 18 the electrical utility's revised plan and submit a report to the
 19 commission assessing the sufficiency of the revised filing. Other
 20 parties to the integrated resource plan proceeding also may submit
 21 comments. Not later than sixty days after the Office of Regulatory
 22 Staff report is filed with the commission, the commission at its
 23 discretion may determine whether to accept the revised integrated
 24 resource plan or to mandate further remedies that the commission
 25 deems appropriate.

26 (4) The submission, review, and acceptance of an integrated
 27 resource plan by the commission, or the inclusion of any specific
 28 resource or experience in an accepted integrated resource plan, shall
 29 not be determinative of the reasonableness or prudence of the
 30 acquisition or construction of any resource or the making of any
 31 expenditure. The electrical utility shall retain the burden of proof to
 32 show that all of its investments and expenditures are reasonable and
 33 prudent when seeking cost recovery in rates.

34 (D)(1) An electrical utility shall submit annual updates to its
 35 integrated resource plan to the commission. An annual update must
 36 include an update to the electric utility's base planning assumptions
 37 relative to its most recently accepted integrated resource plan,
 38 including, but not limited to: energy and demand forecast,
 39 commodity fuel price inputs, renewable energy forecast, energy
 40 efficiency and demand-side management forecasts, changes to
 41 projected retirement dates of existing units, along with other inputs
 42 the commission deems to be for the public interest. The electrical

1 utility's annual update must describe the impact of the updated base
2 planning assumptions on the selected resource plan.

3 (2) The Office of Regulatory Staff shall review each electric
4 utility's annual update and submit a report to the commission
5 providing a recommendation concerning the reasonableness of the
6 annual update. After reviewing the annual update and the Office of
7 Regulatory Staff report, the commission may accept the annual
8 update or direct the electrical utility to make changes to the annual
9 update that the commission determines to be in the public interest.

10 (E) The commission is authorized to promulgate regulations to
11 carry out the provisions of this section."

12
13 SECTION 8. Chapter 37, Title 58 of the 1976 Code is amended by
14 adding:

15
16 "Section 58-37-60. (A) The commission and the Office of
17 Regulatory Staff are authorized to initiate an independent study to
18 evaluate the integration of renewable energy and emerging energy
19 technologies into the electric grid for the public interest. An
20 integration study conducted pursuant to this section shall evaluate
21 what is required for electrical utilities to integrate increased levels
22 of renewable energy and emerging energy technologies while
23 maintaining economic, reliable, and safe operation of the electricity
24 grid in a manner consistent with the public interest. Studies shall be
25 based on the balancing areas of each electrical utility. The
26 commission shall provide an opportunity for interested parties to
27 provide input on the appropriate scope of the study and also to
28 provide comments on a draft report before it is finalized. All data
29 and information relied on by the independent consultant in
30 preparation of the draft study shall be made available to interested
31 parties, subject to appropriate confidentiality protections, during the
32 public comment period. The results of the independent study shall
33 be reported to the General Assembly.

34 (B) The commission may require regular updates from utilities
35 regarding the implementation of the state's renewable energy
36 policies.

37 (C) The commission may hire or retain a consultant to assist with
38 the independent study authorized by this section. The commission
39 is exempt from complying with the State Procurement Code in the
40 selection and hiring of the consultant authorized by this subsection."

41
42 SECTION 9. Section 58-33-110 of the 1976 Code is amended by
43 adding an item at the end to read:

1 “(8)(a) Notwithstanding the provisions of (7), and not limiting the
 2 provisions above, a person may not commence construction of a
 3 major utility facility for generation in the State of South Carolina
 4 without first having made a demonstration that the facility to be built
 5 has been compared to other generation options in terms of cost,
 6 reliability, and any other regulatory implications deemed legally or
 7 reasonably necessary for consideration by the commission. The
 8 commission is authorized to adopt rules for such evaluation of other
 9 generation options.

10 (b) The commission may, upon a showing of a need, require
 11 a commission-approved process that includes:

12 (i) the assessment of an unbiased independent evaluator
 13 retained by the Office of Regulatory Staff as to reasonableness of
 14 any certificate sought under this section for new generation;

15 (ii) a report from the independent evaluator to the
 16 commission regarding the transparency, completeness, and integrity
 17 of bidding processes, if any;

18 (iii) a reasonable period for interested parties to review and
 19 comment on proposed requests for proposals, bid instructions, and
 20 bid evaluation criteria, if any, prior to finalization and issuance,
 21 subject to any trade secrets that could hamper future negotiations;
 22 however, the independent evaluator may access all such
 23 information;

24 (iv) independent evaluator access and review of final bid
 25 evaluation criteria and pricing information for any and all projects
 26 to be evaluated in comparison to the request for proposal bids
 27 received;

28 (v) access through discovery, subject to appropriate
 29 confidentiality, attorney client privilege or trade secret restrictions,
 30 for parties to this proceeding to documents developed in preparing
 31 the certificate of public convenience and necessity application;

32 (vi) a demonstration that the facility is consistent with an
 33 integrated resource plan approved by the commission; and

34 (vii) treatment of utility affiliates in the same manner as
 35 nonaffiliates participating in the request for proposal process.”

36
 37 SECTION 10. Section 58-27-460 of the 1976 Code is amended to
 38 read:

39
 40 “Section 58-27-460. (A)(1)The commission shall promulgate
 41 and periodically review standards for interconnection of ~~renewable~~
 42 ~~energy facilities and other nonutility-owned generation~~ and parallel
 43 operation of generating facilities to an electrical utility’s distribution

1 and transmission system, where such interconnection is under the
 2 jurisdiction of the commission pursuant to Title 16, Chapter 12,
 3 Subchapter II of the United States Code, as amended, regulations
 4 and orders of the Federal Energy Regulatory Commission, and the
 5 laws of South Carolina. Each electrical utility shall implement such
 6 standards in a fair, nondiscriminatory manner, with a generation
 7 capacity of two thousand kilowatts (2,000 kW AC) or less to an
 8 electrical utility's distribution system.

9 (2) The commission shall, within six months of the effective
 10 date of the amendments to this section, establish proceedings for the
 11 purpose of considering revisions to the standards promulgated
 12 pursuant to this section. In developing such revisions, the
 13 commission may consider any issue, which, in the exercise of its
 14 discretion, the commission deems relevant to improving the fairness
 15 and effectiveness of the procedures.

16 (3) In implementing item (1), the commission shall ensure
 17 such standards provide for efficient and timely processing of
 18 interconnection requests and take into account the impact of
 19 generator interconnection on electrical utility system assets, service
 20 reliability, and power quality. Such standards shall address the
 21 impact of the addition of energy storage and the interconnection
 22 processes for amending existing interconnection requests to include
 23 energy storage. The commission shall enact standards that are fair,
 24 reasonable, and nondiscriminatory with respect to interconnection
 25 applicants, other utility customers, and electrical utilities, and the
 26 standards shall serve the public interest in terms of overall cost and
 27 system reliability.

28 ~~(B) No customer generator or customer generator lessee~~
 29 ~~generating facility shall connect or operate an electric generation~~
 30 ~~unit in parallel phase and synchronization with any electrical utility~~
 31 ~~without written approval by the electrical utility that all of the~~
 32 ~~commission's requirements have been met. For a~~
 33 ~~customer generator or customer generator lessee who generating~~
 34 ~~facility that violates this provision, an electrical utility immediately~~
 35 ~~may and without notice disconnect the electric facilities of the~~
 36 ~~customer generator or customer generator lessee and terminate the~~
 37 ~~customer generator's or customer generator lessee's generating~~
 38 ~~facility electric service.~~

39 (C) In the event of a dispute between an interconnection
 40 customer and the electrical utility on an issue relating to
 41 interconnection service, the parties first shall attempt to resolve the
 42 claim or dispute using any dispute resolution procedures provided
 43 for pursuant to the applicable interconnection standards

1 promulgated by the commission. If the parties are unable to resolve
 2 such claim or dispute using those procedures, then either party may
 3 petition the commission for resolution of the dispute including, but
 4 not limited to, a determination of the appropriate terms and
 5 conditions for interconnection. The commission shall resolve such
 6 disputes within six months from the filing of the petition in
 7 accordance with the terms of applicable state and federal law.

8 (D) Each electrical utility shall comply with the South Carolina
 9 generator interconnection procedures and all commission-approved
 10 agreements regarding interconnection practices and reporting
 11 requirements. The commission shall establish reasonable guidelines
 12 to ensure reasonable interconnection timelines, including time
 13 requirements to deliver a final system impact study to all
 14 interconnection customers that execute a system impact study
 15 agreement prior to three months after the effective date of this act.
 16 The commission shall consider implementation of additional
 17 performance incentives and enforcement mechanisms for electrical
 18 utilities to ensure compliance with this requirement.

19 (E) The commission shall, as part of implementing (A)(1),
 20 consider whether a comprehensive independent review of
 21 interconnection should be performed and consider whether to
 22 require each electrical utility to:

23 (1) conduct a study to determine the scope and cost of
 24 necessary transmission upgrades to support development of
 25 renewable energy resources in a manner that does not impact
 26 reliability;

27 (2) evaluate the cost of developing and maintaining hosting
 28 capacity maps to allow power producers to identify areas of the
 29 distribution grid that are more amenable to building and
 30 interconnecting their generation facilities and to avoid areas that are
 31 already saturated with distributed generation; and

32 (3) file a list of interconnected facilities with the commission
 33 each quarter, to include interconnections that are under the
 34 jurisdiction of the Federal Energy Regulatory Commission.”

35
 36 SECTION 11. Chapter 27, Title 58 of the 1976 Code is amended
 37 by adding:

38
 39 “Section 58-27-2660. (A)(1) The Office of Regulatory Staff and
 40 the Department of Consumer Affairs are directed to develop
 41 consumer protection regulations regarding the sale or lease of
 42 renewable energy generation facilities pursuant to the distributed
 43 energy resource program in Chapter 40 of this title. These

1 regulations shall provide for the appropriate disclosure provided by
 2 sellers and lessors. Sellers must comply with Title 37. Nothing
 3 herein alters existing protections afforded by Title 37.

4 (2) To fulfill the duties and responsibilities provided for in
 5 this section, the Office of Regulatory staff shall develop a formal
 6 complaint process as part of the consumer protection regulations.

7 (B) The Office of Regulatory Staff is authorized to enforce any
 8 applicable consumer protection provision set forth in this title by:

9 (1) conducting an investigation into an alleged violation;

10 (2) issuing a cease and desist order against a further violation;

11 (3) imposing an administrative fine not to exceed two
 12 thousand five hundred dollars per violation on a solar company that
 13 materially fails to comply with the consumer protection
 14 requirements; and

15 (4) voiding the agreement if necessary to remedy the violation
 16 or violations.”

17
 18 SECTION 12. Section 58-4-10(B) of the 1976 Code is amended to
 19 read:

20
 21 “(B) Unless and until it chooses not to participate, the Office of
 22 Regulatory Staff must be considered a party of record in all filings,
 23 applications, or proceedings before the commission. The regulatory
 24 staff must represent the public interest of South Carolina before the
 25 commission. For purposes of this chapter only, “public interest”
 26 means the concerns of the using and consuming public with respect
 27 to public utility services, regardless of the class of customer, and
 28 preservation of continued investment in and maintenance of utility
 29 facilities so as to provide reliable and high quality utility services.”

30
 31 SECTION 13. Section 58-4-100 of the 1976 Code is amended to
 32 read:

33
 34 “(A) To the extent necessary to carry out regulatory staff
 35 responsibilities, the executive director is authorized to employ
 36 expert witnesses and other professional expertise as the executive
 37 director may consider necessary to assist the regulatory staff in its
 38 participation in commission proceedings. The compensation paid to
 39 these persons may not exceed compensation generally paid by the
 40 regulated industry for such specialists. The compensation and
 41 expenses therefor must be paid by the public utility or utilities
 42 participating in the proceedings upon agreement between the public
 43 utility or utilities participating in the proceedings and the Office of

1 Regulatory Staff or upon approval by the Review Committee or
 2 from the regulatory staff's budget. If paid by the public utility or
 3 utilities, the compensation and expenses must be treated by the
 4 commission, for ratemaking purposes, in a manner generally
 5 consistent with its treatment of similar expenditures incurred by
 6 utilities in the presentation of their cases before the commission. An
 7 accounting of compensation and expenses must be reported
 8 annually to the review committee, the Speaker of the House of
 9 Representatives, and the Chairman of the Senate Judiciary
 10 Committee.

11 (B) The Office of Regulatory Staff is exempt from the State
 12 Procurement Code in the selection and hiring of an expert or third-
 13 party consultant to conduct an independent study described in
 14 Section 58-37-60 and Section 58-41-20(H). However, the Office of
 15 Regulatory Staff and the commission may not hire the same expert
 16 or third-party consultant in the same proceeding or to address the
 17 same or similar issues in different proceedings."

18
 19 SECTION 14. The provisions of Section 58-41-20 shall not be
 20 interpreted to supersede the conditions of any settlement entered
 21 into by an electrical utility and filed with the commission prior to
 22 the adoption of this act.

23
 24 SECTION 15. All costs incurred by the utility necessary to
 25 effectuate this act, that are not precluded from recovery by other
 26 provisions of this act and that do not have a recovery mechanism
 27 otherwise specified in other provisions of the act or established by
 28 state law, shall be deferred for commission consideration of
 29 recovery in any proceeding initiated under Section 58-27-870, if
 30 deemed reasonable and prudent.

31
 32 SECTION 16. Notwithstanding another provision of this act, or
 33 another provision of law, no costs or expenses incurred nor any
 34 payments made by the electrical utility in compliance or in
 35 accordance with this act must be included in the electrical utility's
 36 rates or otherwise be borne by the general body of South Carolina
 37 retail customers of the electrical utility without an affirmative
 38 finding supported by the preponderance of evidence of record and
 39 conclusion in a written order by the Public Service Commission that
 40 such expense, cost or payment was reasonable and prudent and
 41 made in the best interest of the electrical utility's general body of
 42 customers.

43

1 SECTION 17. The provisions of this act are severable. If any
2 section, subsection, paragraph, subparagraph, item, subitem,
3 sentence, clause, phrase, or word of this act is for any reason held to
4 be unconstitutional or invalid, such holding shall not affect the
5 constitutionality or validity of the remaining portions of the act, the
6 General Assembly hereby declaring that it would have passed each
7 and every section, subsection, paragraph, subparagraph, item,
8 subitem, sentence, clause, phrase, and word thereof, irrespective of
9 the fact that any one or more other sections, subsections, paragraphs,
10 subparagraphs, items, subitems, sentences, clauses, phrases, or
11 words hereof may be declared to be unconstitutional, invalid, or
12 otherwise ineffective.

13

14 SECTION 18. This act takes effect upon approval by the
15 Governor.

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